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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/521,211

01/13/2005

Jan Watte

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02/01/2006

MYERS BIGEL SIBLEY & SAJOVEC

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EXAMINER

PEACE, RHONDA S

ART UNIT

PAPER NUMBER

2874

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/521,211	<b>Applicant(s)</b> WATTE ET AL.	
	<b>Examiner</b> Rhonda S. Peace	<b>Art Unit</b> 2874	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4,9-12,27,29,31-36 and 38-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27,29,31-36 and 38-68 is/are allowed.
- 6) ☒ Claim(s) 1,9, 10, and 69 is/are rejected.
- 7) ☒ Claim(s) 4,11,12 and 70 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

*Claims 1, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Borer et al (US 5395025).*

*Addressing claims 1, 9, and 10,* Borer et al discloses an optical fiber cleaving device comprising a fixing mechanism **24** and **26** configured to fix a fixing element **34** to an optical fiber, where the fixing mechanism **24** and **26** includes a non-circular (in this case, rectangular) orifice **32** (formed when the mechanism **24** and **26** are closed upon one another during the fixing process) configured to receive the fixing element **34** therein, and the fixing element **34** has a corresponding rectangular cross-section. The device also includes a cleaving mechanism **28** configured to cleave an optical fiber (Figures 3 and 4, column 3 lines 39-65). Furthermore, the fixing mechanism **24** and **26** and cleaving mechanism **28** are arranged such that the fiber is cleaved, and an end face of the fiber is produced at a preset position along the fiber (at the point at which the cleaving mechanism **28** contacts the fiber) with respect to the fixing and cleaving mechanisms **24**, **26**, and **28**, and the cleaving mechanism **28** cleaves the fiber such that the fiber end face produced is orientated at a non-perpendicular angle with respect to the longitudinal axis of the fiber (column 4 lines 48-64). Moreover, the fixing mechanism

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**24** and **26** and cleaving mechanism **28** are mutually arranged such that the fiber end face produced by the cleaving mechanism **28** is at a preset orientation with respect to the fixing element **34** (column 5 lines 43-65).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

*Claim 69 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borer et al (US 5395025) in further view of Tanaka et al (US 2003/0015076).*

*Pertaining to claim 69, Borer et al discloses the device as described above. However, Borer et al does not disclose a lifetime indicator which counts the number of cleaves that have been made by the device after the set up procedure and/or the number of cleaves remaining for the device until a device re-set procedure is needed. Tanaka et al discloses a method and apparatus for estimating a life-span of a cutter comprising indicator means which is possible of counting the number of times a blade is used within a cutting device (paragraph 0065). It would have been obvious to one of ordinary skill in the art to combine the teachings of Borer et al and Tanaka et al, as this counter would allow the user to determine when the blade of the cutter needs to be changed, due to over-excessive wear, so as not to damage the device or item being cut if the blade were to break (paragraph 0065).*

***Allowable Subject Matter***

*Claims 4, 11, 12, and 70 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.*

The following is a statement of reasons for the indication of allowable subject matter: The applicable prior art does not disclose, nor does it reasonably suggest, an optical fiber cleaving device having a fixing mechanism and a cleaving mechanism where the fixing mechanism has a non-circular orifice to receive a fixing element

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therein, the fixing element fixed to an optical fiber and having a corresponding non-circular cross-section, and further comprising:

- A hand held tool, as is recited in claim 4.
- Orientation determining means included in the fixing mechanism and arranged to orient the fixing element at a predetermined orientation about the longitudinal axis of the fiber, with respect to the cleaving mechanism, as is recited in claim 11.
- Closing means that closes the non—circular orifice when the device is not in operation, as is recited in claim 70.

*Claims 27, 29, 31-36, and 38-68 are allowed.*

The following is an examiner's statement of reasons for allowance: The most applicable prior art discussed within the body of this Office Action does not disclose, nor does it reasonably suggest a method of coupling optical fibers using a device comprising both a fixing and cleaving mechanism wherein the method includes one of the following:

- A flexibly positionable neck and clamp attached to the device such that the user can temporarily place it in a convenient working position (claim 27).
- A connector body that is rotatably attached to the device such that it facilitates the insertion of a ferrule and fiber into each end of the connector body from directions of insertion less than 180 degrees apart (claim 29).
- A guide means that allows the ferrule assembly holder to be movable along a controlled path (claim 31).

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- A plurality of ferrule assemblies, arranged in succession, and located within the ferrule assembly holder as well as a compressible member attached to the ferrule assembly holder via a flexible member of sufficient length to permit the insertion and locking of the ferrule assembly into the connector body (claim 32).
- Securing means for directly securing the ferrule and the fiber during and after the crimp and cleave operation in the absence of any ferrule holder (claim 35).
- Moving a crimped and secured ferrule containing a cleaved optical fiber into alignment with a connector body in a required orientation either with or without a keying formation on the ferrule and fixing the ferrule to the connector body (claim 38).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Response to Arguments***

Applicant's arguments with respect to claim 1, 4, 9-11, and 20 have been considered but are moot in view of the new ground(s) of rejection. The Applicant is reminded that when incorporating material indicated as allowable if not dependent upon a rejected claim, as was claim 12 in the Office Action dated 12/14/2005, in order to place such a claim into allowance, it must be *rewritten in independent form including all*

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*of the limitations of the base claim and any intervening claims.* The Applicant's failure to incorporate the subject matter of claims 9-11 while incorporating the subject matter of claim 12 into independent claim 1 has necessitated the new grounds of rejection set forth above.

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rhonda S. Peace whose telephone number is (571) 272-8580. The examiner can normally be reached on M-F (8-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272- 2344. The fax phone



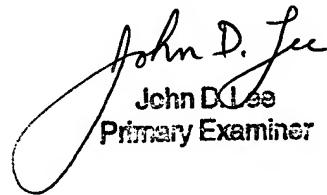
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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rhonda S. Peace  
Examiner  
Art Unit 2874



John D. Lee  
John D. Lee  
Primary Examiner